



National Aeronautics and
Space Administration
Washington, DC 20546

Procurement Notice

PN 04-83
September 25, 2015

NFS 1842 & 1852, Denied Access to NASA Facilities

BACKGROUND: This Procurement Notice (PN) revises the NASA FAR Supplement (NFS) to reflect the final rule published on September 1, 2015 in the Federal Register. This final rule deletes the observance of legal holidays clause with its alternates and replaces it with a new clause that prescribes conditions and procedures pertaining to the closure of NASA facilities.

ACQUISITIONS AFFECTED BY CHANGES: All solicitations and contracts where contractor personnel will be working onsite at a NASA facility issued after the effective date (October 1, 2015) of this NFS final rule.

ACTION REQUIRED BY CONTRACTING OFFICERS: Contracting officers shall use the revised NFS clause 1852.242-72 in all contracts awarded and final solicitations issued after the effective date (October 1, 2015) of the NFS final rule dated September 1, 2015. In accordance with FAR 1.108(d) and NFS 1801.270(b), NASA Procurement Officers shall have their Contracting Officers attempt to negotiate a no cost, bilateral agreement to include this revised clause in those existing contracts that currently have the Holiday Clause. The requirement for consideration is met when the contractor accepts the new clause in their contract in exchange for deleting the existing Holiday Clause.

PROVISION AND CLAUSE CHANGES: 1852.242-72 and NFS Clause Matrix.

PART(S) AFFECTED: Parts 1842 and 1852.

TYPE OF RULE AND PUBLICATION DATE: The PN was published as a final rule in the Federal Register (80 FR 52642) on September 1, 2015.

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PART 1842—CONTRACT ADMINISTRATION AND AUDIT SERVICES

Subpart 1842.70--Additional NASA Contract Clauses.

1842.7001 ~~Observance of legal holidays~~ [Denied Access to NASA Facilities.]

~~* * *~~

~~(a) The contracting officer shall insert the clause at 1852.242-72, Observance of Legal Holidays, in contracts when work will be performed at a NASA installation.~~

~~(b) The clause shall be used with its Alternate I in cost reimbursement contracts when it is desired that contractor employees not have access to the installation during Government holidays. This alternate may be appropriately modified for fixed price contracts.~~

~~(c) The clause may be used with its Alternate II in cost reimbursement contracts when it is desired that administrative leave be granted contractor personnel in special circumstances, such as inclement weather or potentially hazardous conditions. This alternate may be appropriately modified for fixed price contracts.~~

[(a) The contracting officer shall insert the clause at 1852.242-72, Denied Access to NASA Facilities, in solicitations and contracts where contractor personnel will be working onsite at a NASA facility such as: NASA Headquarters and NASA Centers, including Component Facilities and Technical and Service Support Centers. For a list of NASA facilities see NPD 1000.3 “The NASA Organization”. The contracting officer shall not insert the clause where contractor personnel will be working onsite at the Jet Propulsion Laboratory including the Deep Space Network Communication Facilities (Goldstone, CA; Canberra, Australia; and Madrid, Spain).]

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1852.2—Texts of Provisions and Clauses

1852.242-72 ~~Observance of legal holidays~~ [Denied Access to NASA Facilities.]

As prescribed in 1842.7001(a), insert the following clause:

~~Observance of Legal Holidays (AUG 1992)~~

~~(a) The on-site Government personnel observe the following holidays:~~

~~New Year's Day~~

~~Labor Day~~

~~Martin Luther King, Jr.'s Birthday~~

~~Columbus Day~~

~~President's Birthday~~

~~Veterans Day~~

~~Memorial Day~~

~~Thanksgiving Day~~

~~Independence Day~~

~~Christmas Day~~

~~Any other day designated by Federal statute, Executive Order, or the President's proclamation.~~

~~(b) When any holiday falls on a Saturday, the preceding Friday is observed. When any holiday falls on a Sunday, the following Monday is observed. Observance of such days by Government personnel shall not by itself be cause for an additional period of performance or entitlement of compensation except as set forth within the contract.~~

~~(End of clause)~~

~~Alternate I (SEP 1989). As prescribed in 1842.7001(b), add the following paragraphs (c) and (d) as Alternate I to the clause.~~

~~(c) On-site personnel assigned to this contract shall not be granted access to the installation during the holidays in paragraph (a) of the clause, except as follows: the Contractor shall provide sufficient on-site personnel to perform round the clock requirements of critical work already in~~

~~process, unless otherwise instructed by the Contracting Officer or authorized representative. If the Contractor's on-site personnel work during a holiday other than those in paragraph (a) of the clause, no form of holiday or other premium compensation shall be reimbursed as either a direct or indirect cost. However, this does not preclude reimbursement for authorized overtime work that would have been overtime regardless of the status of the day as a holiday.~~

~~(d) The Contractor shall place identical requirements, including this paragraph, in all subcontracts that require performance of work on-site, unless otherwise instructed by the Contracting Officer.~~

~~Alternate II (OCT 2000). As prescribed in 1842.7001(e), add the following as paragraphs (e) and (f) if Alternate I is used, or as paragraphs (c) and (d) if Alternate I is not used. If added as paragraphs (c) and (d), amend the first sentence of paragraph (d) by deleting "(e)" and adding "(e)" in its place.~~

~~(e) When the NASA installation grants administrative leave to its Government employees (e.g., as a result of inclement weather, potentially hazardous conditions, or other special circumstances), Contractor personnel working on-site should also be dismissed. However, the contractor shall provide sufficient onsite personnel to perform round-the-clock requirements of critical work already in process, unless otherwise instructed by the Contracting Officer or authorized representative.~~

~~(f) Whenever administrative leave is granted to Contractor personnel pursuant to paragraph (e) of this clause, it shall be without loss to the Contractor. The cost of salaries and wages to the Contractor for the period of any such excused absence shall be a reimbursable item of cost under this contract for employees in accordance with the Contractor's established accounting policy.~~

[DENIED ACCESS TO NASA FACILITIES October 2015

(a)(1) The performance of this contract requires contractor employees of the prime

contractor or any subcontractor, affiliate, partner, joint venture, or team member with which the contractor is associated, including consultants engaged by any of these entities, to have access to, physical entry into, and to the extent authorized, mobility within, a NASA facility.

(2) NASA may close and or deny contractor access to a NASA facility for a portion of a business day or longer due to any one of the following events –

(i) Federal public holidays for federal employees in accordance with 5 U.S.C. 6103;

(ii) Fires, floods, earthquakes, unusually severe weather to include snow storms, tornadoes and hurricanes;

(iii) Occupational safety or health hazards;

(iv) Non- appropriation of funds by Congress; or

(v) Any other reason.

(3) In such events, the contractor employees may be denied access to a NASA facility, in part or in whole, to perform work required by the contract. Contractor personnel already present at a NASA facility during such events may be required to leave the facility.

(b) In all instances where contractor employees are denied access or required to vacate a NASA facility, in part or in whole, the contractor shall be responsible to ensure contractor personnel working under the contract comply. If the circumstances permit, the contracting officer will provide direction to the contractor, which could include continuing on-site performance during the NASA facility closure period. In the absence of such direction, the contractor shall exercise sound judgment to minimize unnecessary contract costs and performance impacts by, for example, performing required work off-site if possible or reassigning personnel to other activities if appropriate.

(c) The contractor shall be responsible for monitoring the local radio, television stations,

NASA websites, other communications channels, for example contracting officer notification, that the NASA facility is accessible. Once accessible the contractor shall resume contract performance as required by the contract.

(d) For the period that NASA facilities were not accessible to contractor employees, the contracting officer may –

(1) Adjust the contract performance or delivery schedule for a period equivalent to the period the NASA facility was not accessible;

(2) Forego the work;

(3) Reschedule the work by mutual agreement of the parties; or

(4) Consider properly documented requests for equitable adjustment, claim, or any other remedy pursuant to the terms and conditions of the contract.

(e) Notification procedures of a NASA facility closure, including contractor denial of access, as follows -

(1) The contractor shall be responsible for monitoring the local radio, television stations, NASA websites, other communications channels, for example contracting officer notification, for announcement of a NASA facility closure to include denial of access to the NASA facility. The contractor shall be responsible for notification of its employees of the NASA facility closure to include denial of access to the NASA facility. The dismissal of NASA employees in accordance with statute and regulations providing for such dismissals shall not, in itself, equate to a NASA facility closure in which contractor employees are denied access. Moreover, the leave status of NASA employees shall not be conveyed or imputed to contractor personnel. Accordingly, unless a NASA facility is closed and the contractor is denied access to the facility, the contractor shall continue performance in accordance with the contract.

(2) NASA's Emergency Notification System (ENS). ENS is a NASA-wide

Emergency Notification and Accountability System that provides NASA the ability to send messages, both Agency-related and/or Center-related, in the event of an emergency or emerging situation at a NASA facility. Notification is provided via multiple communication devices, e.g. E-mail, text, cellular, home/office numbers. The ENS provides the capability to respond to notifications and provide the safety status. Contractor employees may register for these notifications at the ENS website:

<http://www.hq.nasa.gov/office/ops/nasaonly/ENSinformation.html>.

(End of clause)]

NFS Matrix Update

Clause Number	Title	Date	Prescribed In	P or C	UCF	IBR or FT	Fill In	Mod or Sub	App Dev	FP SUP	CR SUP	FP R&D	CR R&D	FP SVC	CR SVC	FP CON	CR CON	T&M LH	A&E	ID DEL	TRN	SAP	CI
1852.242-72	Observance of Legal Holidays	(AUG 1992))	1842.7001(a)	C	H	IBR	NO	NO		A	A	A	A	A	A	A	A	A		A	A	A	
1852.242-72	Alternate I	(SEP 1989))	1842.7001(b)	C	H	IBR	NO	NO		Ø	A	A	A	Ø	A	Ø	A	A		A	A	Ø	
1852.242-72	Alternate II	(OCT 2000)	1842.7001(c)	C	H	IBR	NO	NO			Ø		Ø		Ø	Ø	Ø	A		Ø	Ø		
1852.242-72	Denied Access To NASA Facilities	(DATE)	1842.7001(a)	C	H	IBR	NO	NO		A	A	A	A	A	A	A	A	A		A	A	A	